



THE CITY OF CHANDLER BOARD OF ADJUSTMENT WILL MEET FOR A SCHEDULED WORKSHOP **MONDAY, APRIL 14, 2014** IN THE CITY HALL OF CHANDLER, TEXAS AT **5:30 P.M.**

AGENDA

- A. CALL TO ORDER
- B. ROLL CALL AND ANNOUNCE IF A QUORUM IS PRESENT

C. REGULAR WORKSHOP SESSION:

- 1. Discussion of Board of Adjustment rules and procedures.

Adjournment of Meeting

In compliance with the Americans with Disabilities Act, the City of Chandler will provide for reasonable accommodations for persons attending Meetings. To better serve you, requests should be received 24 hours prior to the meetings. Please contact Shirley Parmer, City Secretary, at 903 849-6853.

CERTIFICATION

I certify that a copy of the April 14, 2014, workshop agenda of items to be considered by the Chandler Board of Adjustment was posted on the City Hall bulletin board on April 9, 2014.

Shirley Parmer, City Secretary

I certify that the attached notice and agenda of items to be considered by the Chandler Board of Adjustment was removed by me from the City Hall bulletin board on the _____ day of _____, 20____.

Title: _____

Differences between the Board of Adjustment and the City Council

The Board of Adjustment (BOA) is a quasi-judicial body unlike the City Council which is a legislative body. As such, the BOA is an entity such as an arbitrator or tribunal board, which has powers and procedures resembling those of a court of law or judge, and which is obligated to objectively determine facts and draw conclusions from them so as to provide the basis of an official action. Such actions are able to remedy a situation or impose legal penalties, and may affect the legal rights, duties or privileges of specific parties.

In general, decisions of a quasi-judicial body require findings of facts to reach conclusions of law that justify the decision. They usually depend on a pre-determined set of guidelines or criteria to assess the nature and gravity of the permission or relief sought, or of the offense committed. Appeals of a Board of Adjustment decision must be filed in the district court.

In a Board of Adjustment proceeding, quasi-judicial matters, all evidence and finding of fact should occur at the hearing. This promotes impartial decisions by giving everyone involved a fair chance to respond to all information that may affect the decision. This is different from a City Council proceeding in which Council members and citizens are free to discuss legislative matters at any time.

Chandler Code of Ordinances – Zoning Ordinance

Sec. 21-4. BOARD OF ADJUSTMENT

The word “Board” when used in this Ordinance shall be constructed to mean the Board of Adjustment.

1. Organization and procedure

a. Establishment

A Board of Adjustment is hereby established in accordance with the provisions of V.T.C.A., Local Government Code, Chapter 211, regarding the zoning of cities and with the powers and duties as provided in said Statutes.

b. Membership

The Board shall consist of the sitting governing body, consisting of the mayor and city council. The mayor will act as the Chairperson and is not a voting member unless there is a tie.

c. Meetings

Meetings of the Board shall be held at the call of the Chairman and at such other times as a majority of the Board may determine.

d. Hearings

The hearings of the Board of Adjustment shall be public. However, the Board may go into executive session for discussion but not for vote on any case before it. The Board shall hear the intervention of any owner of property adjacent to, in the rear of, or across the street from a lot as to which the granting of any building permit is pending, and shall also hear any other parties in interest.

e. Rules and regulations

The Board shall keep minutes of its proceedings, showing the vote of each member upon each question, or, if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the Building Inspector and shall be a public record.

The Board of Adjustment shall act by resolution in which three members must concur. The Board shall adopt from time to time such additional rules and regulations as it may deem necessary to carry into effect the provisions of the Ordinance, and shall furnish a copy of the same to the Building Inspector, all of which rules and regulations shall operate uniformly in all cases. All of its resolutions and orders shall be in accordance therewith.

2. Appeals

a. Procedure

Appeals may be taken to and before the Board of Adjustment by any persons aggrieved by any officer or department of the City. Such appeal shall be made by filing with the Building Inspector a notice of appeal and specifying the grounds thereof. The office or department from which the appeal is taken shall forthwith transmit to the Board of Adjustment all of the papers constituting the record upon which the action appealed from was taken.

b. Stay of proceedings

An appeal shall stay all proceeding is in [sic] furtherance of the action appealed from unless the Building Inspector shall certify to the Board of Adjustment that by reason of facts stated in the certificate, a stay would, in his opinion, cause imminent peril to life or property, in which case the

proceeding shall not be stayed other than by a restraining order which may be granted by the Board of Adjustment or by a court of equity, after notice of the officer from whom the appeal is taken and on due cause shown.

c. Notice of hearing on appeal

The Board shall fix a reasonable time for the hearing of the appeal or other matter referred to it, and shall mail notices of such hearing to the petitioner and to the owners of property lying within 200 feet of any point of the lot or portion thereof on which a variation is desired, and to all other persons deemed by the Board to be affected thereby, such owners and persons being determined according to the current tax rolls of the Henderson County. Depositing of such written notice in the mail shall be deemed sufficient compliance therewith.

d. Decision by Board

The Board shall decide the appeal within a reasonable time. Upon the hearing, any party may appear in person or by agent or attorney. The Board may reverse or affirm, wholly or partly, or may modify the order, requirements, decision or determination appealed from and shall make such order; requirement, decision or determination as in its opinion ought to be made in the premises, and to that end, shall have all powers of the officer or department from whom the appeal is taken.

3. Powers and duties of board

a. Subpoena witnesses. etc.

The Board shall have the power to subpoena witnesses, administer oaths, and punish for contempt, and may require the production of documents, under such regulations as it may establish.

b. Appeal based on error

The Board shall have the power to hear and decide appeals where it is alleged there is error of law in any order, requirements, decision or determination made, by the Building Inspector in the enforcement of this Ordinance.

c. Special exceptions

The Board shall have the power to hear and decide special exceptions to the terms of this Ordinance upon which the Board is required to pass as follows or elsewhere in this Ordinance:

1) Permit the erection and use of buildings.

(d) [2] To permit a public utility or public service use of structure in any district, or a public utility or public service building of a ground area and of a height at variance with those provided for in the district in which such public utility or public service building is permitted to be located, when found reasonably necessary for the public health, convenience, safety, or general welfare.

3) To permit a transitional use between a business or industrial and residential district where the side of a lot in a single-family or multiple-family district, abuts upon a lot zoned for business or industrial purposes as follows:

a) On a lot in a single-family district which sides upon a lot zoned for business or industrial purposes, the Board may permit a two-family dwelling on a lot with an area of not less than 6,000 square feet.

b) Provided, however, that in no case shall any transitional use have a width of more than 100 feet.

4) To grant a permit for the extension of a use, height or, area regulation into an adjoining district, where the boundary line of the district divides a lot in a single ownership on the effective date of this Ordinance.

5) Waive or reduce the parking and loading requirements in any of the districts whenever the character or use of the building is such as to make necessary the full provision of parking or loading facilities, or where such regulations would impose an unreasonable hardship upon the use of the lot, as contrasted with merely granting an advantage or a convenience.

6) Permit land within 300 feet of a multifamily dwelling to be improved for the parking spaces required in connection with a multifamily dwelling, but only when there is positive assurance that such land will be used for such purpose during the existence of the multifamily dwelling.

7) To determine in cases of uncertainty the classification of any use not specifically named in this Ordinance.

d. Variances

The Board shall have the power to authorize upon appeal in specific cases such variance from the terms of this Ordinance as will not be contrary to the public interest, where owing to special conditions a literal enforcement of the provisions of this Ordinance will result in unnecessary hardship, and so that the spirit of this Ordinance shall be observed and substantial justice done, owing to and including the following special conditions:

1) Permit a variance in the yard requirements of any district where there are unusual and practical difficulties or unnecessary hardships in the carrying out of these provisions due to an irregular shape of the lot, topographical or other conditions, provided such variance will not seriously affect any adjoining property or the general welfare.

2) Authorize upon appeal, whenever a property owner can show that a strict application of the terms of this Ordinance relating to the use, construction or alterations of buildings or structures or the use of land will impose upon him unusual and practical difficulties or particular hardship, such variances from the strict application of the terms of this Ordinance as are in harmony with its general purpose and intent, but only when the Board is satisfied that a granting of such variation will not merely serve as a convenience to the applicant, but will alleviate some demonstrable and unusual hardship or difficulty so great as to warrant a variance from the Community Plan as established by this Ordinance, and at the same time, the surrounding property will be properly protected.

e. Changes

The Board shall have no authority to change any provisions of this Ordinance, and its jurisdiction is limited to hardship and borderline cases which may arise from time to time.

State law reference—Establishment and authority of zoning board of adjustment, V.T.C.A., Local Government Code, sec. 211.008 et seq.